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5 BEFORE THE PERSONNEL APPEALS BOARD  
6 STATE OF WASHINGTON  
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8 DEANNE MARIE BROUSE (ZIMMERMAN), ) Case No. SUSP-04-0019  
9 Appellant, ) FINDINGS OF FACT, CONCLUSIONS OF  
10 v. ) LAW AND ORDER OF THE BOARD  
11 DEPARTMENT OF SOCIAL AND HEALTH )  
12 SERVICES, )  
13 Respondent. )

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15 I. INTRODUCTION

16 1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER  
17 T. HUBBARD, Chair; BUSSE NUTLEY, Vice Chair; and GERALD L. MORGEN, Member. The  
18 hearing was held in Conference Room 2A at the Department of Transportation, 15700 Dayton  
19 Avenue, Seattle, Washington, on January 19, 2005.  
20

21 1.2 **Appearances.** Appellant Deanne Brouse (Zimmerman) was present and was represented by  
22 Gregory Rhodes, of Parr, Younglove, Lyman & Coker, P.L.L.C. Emily Calkins, Assistant Attorney  
23 General, represented Respondent Department of Social and Health Services.  
24

25 1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of a two-day suspension  
26 without pay for neglect of duty, insubordination, and willful violation of published employing

1 agency or department of personnel rules or regulations. Respondent alleges Appellant exhibited  
2 inappropriate conduct in a voicemail message to her supervisor and an email message to a co-  
3 worker.

## 4 5 **II. FINDINGS OF FACT**

6 2.1 Appellant Deanne Brouse is a Social Worker 3 for Respondent Department of Social and  
7 Health Services. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the  
8 rules promulgated thereunder, Titles 356 and 358 WAC. Appellant filed a timely appeal with the  
9 Personnel Appeals Board on March 25, 2004.

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11 2.2 Appellant has been a state employee since March 1992 and began working in the Region 4  
12 Division of Children and Family Services (DCFS), Kent Office in 1996. While working as a Social  
13 Worker 3 in the Kent DCFS, Appellant pulled referrals from the computer system, reviewed address  
14 information, and then routed the information to the appropriate supervisor. Appellant's direct  
15 supervisor was Social Worker 4 Lela Brugger. On occasion, Secretary Senior Darla Griggs backed  
16 up Appellant's position, performing intake duties.

17  
18 2.3 Appellant's personnel file reflects the following:

- 19
- 20 • On April 17, 2001, Appellant received a counseling memo from her  
21 supervisor, Robert King, for entering his office when he was not present and  
22 reading a journal containing information about another employee. Appellant  
23 then met with Mr. King and inquired whether he was going to "write up" the  
24 employee's incident she read about while in his office. Mr. King directed  
25 Appellant not to enter his office or read anything on his desk when he was not  
26 present. Mr. King also warned Appellant that failure to follow his directive  
might result in disciplinary action.
  - In 2001, Mr. King issued Appellant a memo concerning her circumventing the  
chain of command when she contacted the area administrator regarding an

1 issue with another staff member. Mr. King directed Appellant to discuss  
2 concerns with him first, before taking issues up the chain of command.

- 3 • Appellant's Employee Development and Performance Plan (EDPP) for the  
4 period of March 2001 through March 2002 notes Appellant's need to work on  
5 her communication and diplomacy skills with community and staff members.  
6 The EDPP also notes Appellant's need to work out issues concerning other  
7 staff at a lower level by bringing issues to her supervisor and not raising the  
8 intensity of those issues to higher levels.
- 9 • On February 14, 2003, Appellant received a letter of reprimand for  
10 unprofessional and insubordinate behavior.

11 2.4 In addition, Area Administrator Scott Steuby sent Appellant an email on January 24, 2003,  
12 in response to an email she sent to him from her home at 2:15 in the morning. In his January 24  
13 email, Mr. Steuby wrote:

14 . . . I am becoming concerned that this matter continues to demand so  
15 much of your time and attention. Given the number of e-mails I have  
16 received from you it appears to have completely taken over your focus  
17 which should be directed at work activities. You must work with your  
18 supervisor. I expect you to be able to take comments that you do not  
19 agree with and either politely confront that person, ignore the comment or  
20 work with your supervisor to resolve the matter. . .

21 2.5 DSHS has adopted Policy 6.04, Standards of Ethical Conduct for Employees. In subsection  
22 A, Policy 6.04 states, "DSHS requires employees to perform duties and responsibilities in a manner  
23 that maintains standards of behavior that promote public trust, faith, and confidence." Subsection 2  
24 specifically states that employees shall create a working environment free from harassment, to  
25 include "[c]reating an environment free from intimidation, retaliation, hostility, or unreasonable  
26 interference with an individual's work performance." Further, subsection 4 requires that employees  
"[i]nteract with co-workers with respect, concern, courtesy, and responsiveness."

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3 Allegation # 1  
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5 2.6 On February 4, 2003, Appellant's supervisor, Lela Brugger, arrived at work and  
6 listened to a voicemail message Ms. Brugger received from Appellant, which Appellant left at  
7 around 3 a.m. that morning. Appellant left the following voicemail message:

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9 It's 3:15 in the morning and I woke up because I am fearful to come to work due to  
10 your physically intimidating and hostile behaviors in my cubicle yesterday. I want an  
11 apology from you and I want a firm commitment that you will never treat me like that  
12 again and if you think that I have not already checked with the police because you are  
13 on the edge of committing a crime, I did check with the police Lela, don't ever, ever,  
14 ever treat me that way again. You really need to look at your behaviors. And I do  
15 not care what capacity you work for in the State of Washington, you do not have the  
16 right to do what you did to me yesterday, I want an apology.

17  
18 Ms. Brugger became concerned with the nature and tone of Appellant's message and perceived the  
19 message as threatening and aggressive in nature. As a result, Ms. Brugger reported Appellant's  
20 voice message to Area Administrator Scott Steuby.  
21

22 2.7 Social Worker Supervisor Carol Sandoval prepared the Conducted Investigation Report  
23 (CIR) regarding the voice message allegation, and Mr. Steuby prepared the administrative  
24 comments to the CIR. As part of the investigative process, Ms. Sandoval interviewed Ms. Brugger,  
25 who reiterated her perception that the message was a threat and made her feel nervous. Ms.  
26 Brugger further stated Appellant had called her at home around 6:30 p.m., prior to placing the 3  
a.m. call. In addition, Ms. Sandoval interviewed Appellant with her union representative present.  
Appellant stated her voice message to Ms. Brugger resulted from a series of events that had recently  
occurred between Ms. Brugger and her. Appellant further stated that she did not intend for the

1 message to be threatening; rather, she wanted Ms. Brugger to realize she had been upset by an  
2 interaction the previous day, in which Ms. Brugger allegedly confronted her in her cubicle. Ms.  
3 Sandoval investigated Appellant's claim; however, no employee working within the vicinity of  
4 Appellant's work area recalled any type of a loud disturbance.

5  
6 2.8 Ms. Sandoval and Mr. Steuby listened to the voice message and determined Appellant's  
7 tone sounded agitated, aggressive, and threatening. Mr. Steuby concluded that the message was left  
8 by Appellant with the intent to intimidate. He further concluded that Appellant left the message in  
9 violation of pervious directives from her superiors.

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11 Allegation # 2

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13 2.9 On February 5, 2003, Appellant sent the following email to Secretary Senior Darla  
14 Griggs:

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16 Darla, Since you chose to not apologize to me for your blatant unprofessional  
17 behavior toward me recently in Helen's office, I will remember this especially if there  
18 is ever a "next time." Let's hope there is not a "next time" because I will ask for an  
19 official investigation through personnel if it happens again. Please consider this your  
20 courtesy notice.

21  
22 2.10 Ms. Sandoval also prepared the CIR regarding Appellant's email to Ms. Griggs, and Mr.  
23 Steuby prepared the administrative comments. During her investigation, Ms. Sandoval spoke to  
24 Appellant, Ms. Griggs, and Social Worker Supervisor Helen Eyssen regarding a discussion in Ms.  
25 Eyssen's office that took place on January 17, 2003, which prompted a series of emails by  
26 Appellant, including the February 5 email. During the January 17 discussion, Ms. Griggs  
commented that Appellant was a "glorified clerk." Ms. Eyssen and Ms. Griggs characterized the  
exchange as a friendly banter. However, Appellant found the comment offensive, and later that

1 day, she sent numerous emails to Ms. Griggs and Ms. Brugger, indicating Ms. Griggs's comment  
2 was unprofessional. In a series of other emails, Appellant demanded a written apology from Ms.  
3 Griggs or stated she would contact the area administrator.

4  
5 2.11 During the investigation by Ms. Sandoval, Appellant denied her message was threatening  
6 and stated her motivation for sending the email was to resolve her hurt feelings. However, Ms.  
7 Griggs reported to Ms. Sandoval that she felt threatened and was concerned that her job was in  
8 jeopardy because Appellant held a higher-level position than she did. Mr. Steuby concluded that  
9 Appellant's email to Ms. Griggs was unprofessional, was written with the intent to intimidate, and  
10 demonstrated a lack of insight regarding what constitutes proper communication between co-  
11 workers.

12  
13 2.12 By letter dated March 9, 2004, Regional Administrator Jacquelyn Buchanan notified  
14 Appellant of her two-day suspension without pay, effective March 10, 2004, through March 11,  
15 2004. Ms. Buchanan charged Appellant with neglect of duty, insubordination, and willful violation  
16 of published employing agency or department of personnel rules or regulations for an inappropriate  
17 voicemail message for her supervisor and sending an inappropriate email to her co-worker.

18  
19 2.13 In determining the level of discipline, Regional Administrator Jacquelyn Buchanan,  
20 Appellant's appointing authority, considered Appellant's work history, including performance  
21 evaluations and prior counseling regarding unprofessional communications. Ms. Buchanan was  
22 troubled by Appellant's inability to interact with her co-workers in a professional and respectful  
23 manner. Therefore, Ms. Buchanan determined a two-day suspension was the appropriate sanction  
24 to impress upon Appellant the seriousness of her misconduct and her need to follow supervisory  
25 instructions and perform her duties in a manner that is not disruptive and ensures an appropriate  
26 working environment for all employees.

### III. ARGUMENTS OF THE PARTIES

3.1 Respondent argues Appellant was insubordinate when she failed to follow supervisory directives to conduct herself in a professional and appropriate manner when dealing with disagreements with co-workers. Respondent further argues Appellant received numerous counseling sessions related to her abrupt communication style and that she had a pattern of misperceiving events and then demanding apologies from co-workers. Respondent asserts Appellant neglected her duty to treat co-workers with dignity and respect and, instead, created tension in the workplace and exhibited threatening behavior. Respondent contends Appellant's actions violated the department's policy on ethical conduct for employees and argues her misconduct affected the agency's ability to ensure the safety of its employees. Therefore, Respondent argues the two-day suspension is the appropriate sanction to send Appellant a clear message her behavior is unacceptable.

3.2 Appellant argues she has professional integrity and there have been no criticisms of her job qualifications. Appellant asserts this case is about perceptions and that she perceived her supervisor's behavior toward her was hostile and intimidating. Appellant also asserts her co-worker's comments were unprofessional. Appellant contends she did not threaten anyone and that she was simply voicing her concerns about the unprofessional treatment by her supervisor and co-worker toward her. Appellant further contends there are discrepancies by both her supervisor and co-worker regarding the events leading up to her actions. In addition, Appellant asserts she followed the proper channels, that her concerns needed to be addressed, and that her voicemail message and email were appropriate responses to her concerns.

#### IV. CONCLUSIONS OF LAW

4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting the charges upon which the action was initiated by proving by a preponderance of the credible evidence that Appellant committed the offenses set forth in the disciplinary letter and that the sanction was appropriate under the facts and circumstances. WAC 358-30-170; WAC 251-12-240(1); Baker v. Dep't of Corrections, PAB No. D82-084 (1983).

4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987).

4.4 Insubordination is the refusal to comply with a lawful order or directive given by a superior and is defined as not submitting to authority, willful disrespect, or disobedience. Countryman v. Dep't of Social & Health Services, PAB No. D94-025 (1995).

4.5 Willful violation of published employing agency or institution or Personnel Resources Board rules or regulations is established by facts showing the existence and publication of the rules or regulations, Appellant's knowledge of the rules or regulations, and failure to comply with the rules or regulations. A willful violation presumes a deliberate act. Skaalheim v. Dep't of Social & Health Services, PAB No. D93-053 (1994).

4.6 Appellant had a duty to treat her supervisor and co-workers with dignity and respect. Respondent has proven by a preponderance of the credible evidence that Appellant neglected that



1 duty, was insubordinate, and violated agency policy when she sent a clearly inappropriate voicemail  
2 message to her supervisor. Additionally, the credible evidence supports Ms. Brugger's perception  
3 that Appellant's message indicated threatening behavior, both by her tone and the time she sent it,  
4 and is further corroborated by Ms. Sandoval's and Mr. Steuby's characterization that Appellant  
5 sounded angry and agitated.

6 Despite prior directives to communicate properly with co-workers and supervisors,  
7 Appellant continued to exhibit a pattern of disruptive behavior, problems communicating with other  
8 employees, and requests for apologies. Furthermore, we do not find either Appellant's voicemail  
9 message to her supervisor or her email to her co-worker to be appropriate responses to her concerns.

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11 4.7 Therefore, under the proven facts and circumstances, suspension is appropriate, and the  
12 appeal should be denied.

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14 **V. ORDER**

15 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Deanne Brouse (Zimmerman)  
16 is denied.

17 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

18  
19 WASHINGTON STATE PERSONNEL APPEALS BOARD

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21 \_\_\_\_\_  
22 Walter T. Hubbard, Chair

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24 \_\_\_\_\_  
25 Busse Nutley, Vice Chair

26 \_\_\_\_\_  
Gerald L. Morgen, Member